

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
GREAT FALLS DIVISION

UNITED STATES OF AMERICA,

CR-15-19-BMM

Plaintiff,

vs.

COBRA JADE SPOTTED WOLF,

Defendant.

**FINDINGS AND
RECOMMENDATIONS TO
REVOKE DEFENDANT'S
SUPERVISED RELEASE**

I. Synopsis

The United States accused Mr. Spotted Wolf of violating his conditions of supervised release by 1) using a controlled substance, 2) possessing a controlled substance, 3) using a controlled substance, and 4) possessing a controlled substance. He admitted to the allegations. Mr. Spotted Wolf's supervised release should be revoked. He should be sentenced to fourteen months of custody, with no supervised release to follow.

II. Status

On October 15, 2015, United States District Judge Brian Morris sentenced Mr. Spotted Wolf to twenty-eight months in custody, with twenty-four months of supervised release to follow, after he pleaded guilty to Assault Resulting in Serious Bodily Injury. (Doc. 66). He began his first term of supervised release on May 3

2017.

On June 28, 2017, the United States Probation Office filed a Petition for Warrant for Offender Under Supervision, seeking to revoke Mr. Spotted Wolf's supervised release for testing positive for methamphetamine and for absconding from the Great Falls Pre-Release Center. (Doc. 78). Mr. Spotted Wolf was sentenced to five months custody, with nineteen months of supervised release to follow. (Doc. 89). He began his current term of supervised release on November 28, 2017.

Petition

The Probation Office filed a Petition for Warrant for Offender Under Supervision on June 28, 2017, accusing Mr. Spotted Wolf of violating the conditions of his supervised release. The petition alleged that on December 1, 2017, Mr. Spotted Wolf submitted a positive urine sample for methamphetamine and buprenorphine, and admitted that he used Suboxone throughout his prison term and possessed and used methamphetamine the day he was released from prison. The petition also alleged that on January 18, 2018, Mr. Spotted Wolf submitted a positive urine test for methamphetamine, and admitted to using methamphetamine on January 14, 2018. (Doc. 91). On January 29, 2018, Judge Morris issued a warrant for his arrest based on the allegations in the petition. (Doc. 92). Mr. Spotted Wolf was arrested on June 11, 2018.

Initial appearance

Mr. Spotted Wolf appeared before the undersigned for an initial appearance on June 26, 2018, in Great Falls, Montana. Federal Defender David Ness accompanied him at the initial appearance. Assistant United States Attorney Jeff Starnes represented the United States.

Mr. Spotted Wolf said he had read the petition and understood the allegations. He waived the preliminary hearing, and the parties consented to proceed with the revocation hearing before the undersigned.

Revocation hearing

Mr. Spotted Wolf admitted to the allegations. The admitted violations are serious and warrant revocation of Mr. Spotted Wolf's supervised release.

Mr. Spotted Wolf's violation grade is Grade C, his criminal history category is I, and his underlying offense is a Class C felony. He could be incarcerated for up to twenty-four months. He could be ordered to remain on supervised release for twenty-four months, less any custody time imposed. The United States Sentencing Guidelines call for three to nine months in custody.

Mr. Spotted Wolf exercised his right of allocution, and stated to the Court that he sought treatment and to be placed in a pre-release center. However, when presented with that option, Mr. Spotted Wolf recanted and requested to serve a longer sentence with no supervised release.

III. Analysis

Mr. Spotted Wolf's supervised release should be revoked because he admitted to violating its conditions. He should be sentenced to sentenced to fourteen months in custody, with no term of supervised release to follow. This sentence would be sufficient given the violation of the Court's trust, but it would not be greater than necessary.

IV. Conclusion

Mr. Spotted Wolf was advised that the above sentence would be recommended to Judge Morris. The Court reminded him of his right to object to these Findings and Recommendations within 14 days of their issuance. The undersigned explained that Judge Morris would consider his objection, if it is filed within the allotted time, before making a final determination on whether to revoke his supervised release and what, if any, sanction to impose.

The Court FINDS:

Cobra Jade Spotted Wolf violated the conditions of his supervised release by) using a controlled substance, 2) possessing a controlled substance, 3) using a controlled substance, and 4) possessing a controlled substance.

The Court RECOMMENDS:

The district court should enter the attached Judgment, revoking Mr. Spotted Wolf's supervised release and committing him to the custody of the United States

Bureau of Prisons for fourteen months in custody, with no supervised release to follow.

**NOTICE OF RIGHT TO OBJECT TO FINDINGS AND
RECOMMENDATIONS AND CONSEQUENCES OF FAILURE TO
OBJECT**

The parties may serve and file written objections to the Findings and Recommendations within 14 days of their entry, as indicated on the Notice of Electronic Filing. 28 U.S.C. § 636(b)(1). A district judge will make a de novo determination regarding any portion of the Findings and Recommendations to which objection is made. The district judge may accept, reject, or modify, in whole or in part, the Findings and Recommendations. Failure to timely file written objections may bar a de novo determination by the district judge, and may waive the right to appear and allocute before a district judge.

Dated the 28th day of June, 2018.



John Johnston
United States Magistrate Judge